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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,915	03/11/2004	Timothy G. Deboer	CA920030075US1	7010
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Greg Goshorn, P.C. 9600 Escarpment Suite 745-9 AUSTIN, TX 78749				
EXAMINER				
DENG, ANNA CHEN				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/798,915

Applicant(s)

DEBOER, TIMOTHY G.

Examiner

ANNA DENG

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 21 and 22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 21, and 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to amendment filed on 9/19/2008.
2. Claims 1 and 21-22 are pending.

Response to Amendment

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haikin, USPN 6,757,893 B1 (hereinafter Haikin), in view of Akin et al. USPN 6,182,254 B1 (hereinafter Akin), further in view of Thames et al. USPN 2004/0189713 (hereinafter Thames).

Per Claim 1:

Haikin teaches **A method for competitive peer programming** (Haikin, col. 1, lines 7-19, "the present invention provides a system for use by software developers during the development and maintenance of the software source code of a software system, ... it is possible for multiple software developers to work on the same software source code at the same time, while still providing historical version tracking of all modifications to each of the source code lines") **comprising: enabling a first developer to make changes to a first section of source code thereby**

producing a first modified section of code (Haikin, col. 1, lines 7-19, "the present invention provides a system for use by software developers during the development and maintenance of the software source code of a software system, whereby modified versions of the source code are tracked and stored on a line-by-line basis within a source code storage. ... it is possible for multiple software developers to work on the same software source code at the same time, while still providing historical version tracking of all modifications to each of the source code lines"; also, col. 5, lines 60- 67, through col. 6, lines 1-3, the version control system of the present invention therefore creates new versions for only those source code lines that have been modified or newly created...Furthermore, the version control system of the present invention allows software developers to work together in a coordinated fashion to access, modify and integrate, in a controlled fashion, the versions of source code lines that are stored in the source code storage); **enabling a second developer to make changes to the first section of source code thereby producing a second modified section of code** (Haiking, col. 3, lines 20-30, "source code can be accessed and modified by more than one software developer at a time").

Haiking does not explicitly teach **testing said first modified section of code to produce a first test result; testing said second modified section of code to produce a second test result; comparing said first test result with said second test result; based upon the comparison.**

However, Akin teaches **testing said first modified section of code to produce a first test result** (Akin, FIG. 3, Client Test System A 300, Software Program A and Test Program A, col. 4, lines 62-65, after access to the desired test case data is established, test program A 312 issues execution instruction 322 to execute software program A 310. Likewise, test program A 312 may also compare the actual results produced from the execution of software program A310 with a set of expected results"); **testing said second modified section of code to produce a second test result** (Akin, FIG. 3, Client Test System B 302, Software Program B 336, Test Program B 334, col. 6, lines 60-62, The structure and functionality of client test system B 302 is to that of client test system A 300); **comparing said first test result with said second test result** (Akin, col. 4, lines 65-67, test program A 312 may also compare the actual results produced from the execution of software program A 310 with a set of expected results (second test result)); **based upon the comparison** (Akin, col. 5, lines 2-6, Test program A 312 may also perform other test automation tasks, including production and analysis of test statistics, management of predetermined test flows, and data management. For example, if the actual results of software program A 310's execution match the expected results...).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by Haikin to include **testing said first modified section of code to produce a first test result; testing said second modified section of code to produce a second test result; comparing said first test result with said second test result; based upon the**

comparison using the teaching of Akin. The modification would be obvious because one of ordinary skill in the art would be motivated to provide a software program with selective access to a plurality of test case data elements (Akin, col. 2, lines 24-26).

The combination of Haikin and Akin does not explicitly teaches **replacing the first section of source code with either the first modified section of code or the second modified section of code**. However, Thames teaches **replacing the first section of source code with either the first modified section of code or the second modified section of code** (Thames, [1090], the changed source text is retrieved from table newfile indexed by the equivalent line number. A user dialog is then initiated showing the old source text, the new source text replacing it).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by Haikin and Akin to include **replacing the first section of source code with either the first modified section of code or the second modified section of code** using the teaching of Thames. The modification would be obvious because one of ordinary skill in the art would be motivated to automatic generation of documentation for complex detailed information such as computer program source code (Thames, [0003]).

Per Claim 21:

The rejection of claim 1 is incorporation, Akin further teaches **comparing the first and second test result with a references test result** (Akin, col. 4, lines 65-67

through col. 5, line 1, test program A 312 may also compare the actual results produced from the execution of software program A 310 with a set of expected results form the central repository; also, col. 6, lines 60-62, test program B 334 (compare second test result)); **based upon the comparison of the first, second and reference test results** (Akin, col. 5, lines 2-6, Test program A 312 may also perform other test automation tasks, including production and analysis of test statistics, management of predetermined test flows, and data management. For example, if the actual results of software program A 310's execution match the expected results...); and furthermore Thames teaches **either replacing the first section of source code with the first modified section of source code or the second modified section of source or not replacing the first section of source** (Thames, [1090], the changed source text is retrieved from table newfile indexed by the equivalent line number. A user dialog is then initiated showing the old source text, the new source text replacing it).

Per Claim 22:

The rejection of claim 21 is incorporation, Akin further teaches **the reference test result is produced from an unmodified version of the first section of source code** (Akin, col. 4, lines 65-67 through col. 5, line 1, test program A 312 may also compare the actual results produced from the execution of software program A 310 with a set of expected results form the central repository).

Response to Arguments

5. Applicant's arguments filed 9/19/2008 have been fully considered but they are not persuasive.

Applicant argued:

Haikin is directed to a software version control system. There is no suggestion of code comparison and, therefore, the O.A. relies upon Akin for this aspect of Applicants' claimed subject matter. However, the two programs described in Akin are not described as modifications of the same section of code. There is simply no suggest that Test Program A and B are even related much less generated from the same code.

Examiner response:

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As Haikin teaches **enabling a first developer to make changes to a first section of source code thereby producing a first modified section of code; enabling a second developer to make changes to the first section of source code thereby producing a second modified section of code** (col. 1, lines 7-19, it is possible for multiple software developers to work on the same software source code at

the same time, while still providing historical version tracking of all modifications to each of the source code lines; col. 3, lines 20-30, source code can be accessed and modified by more than one software developer at a time; col. 5, lines 60- 67, through col. 6, lines 1-3, the version control system of the present invention therefore creates new versions for only those source code lines that have been modified or newly created ...

Furthermore, the version control system of the present invention allows software developers to work together in a coordinated fashion to access, modify and integrate, in a controlled fashion, the versions of source code lines that are stored in the source code storage); and Akin teaches **testing said first modified section of code to produce a first test result; testing said second modified section of code to produce a second test result; comparing said first test result with said second test result** (Akin, see FIG. 3, col. 4, lines 62-67, after access to the desired test case data is established, test program A 312 issues execution instruction 322 to execute software program A 310. Likewise, test program A 312 may also compare the actual results produced from the execution of software program A310 with a set of expected results; col. 6, lines 60-62, The structure and functionality of client test system B 302 is to that of client test system A 300). Therefore, the combination of Haikin and Akin teaches modify code to produce test result and comparing the test results.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136 (a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anna Deng whose telephone number is 571-272-5989. The examiner can normally be reached on Monday to Friday 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Anna Deng/

Examiner, Art Unit 2191

/Wei Y Zhen/

Supervisory Patent Examiner, Art Unit 2191